

IN THE COURT OF CRIMINAL APPEALS  
FOR THE STATE OF ALABAMA

JAMES WILBERT WALKER, JR.,     )  
  )  
                  Appellant,        )  
  )  
vs.                                    )     Crim. App. No. CR 01-2524  
  )  
  )  
STATE OF ALABAMA,                 )  
  )  
                  Appellee.         )

**MOTION TO AMEND FINDING OF FACTS**

COMES NOW the above-named Appellant, JAMES WILBERT WALKER, JR. ("WALKER"), and pursuant to ARAP 39(d)(5)(a) requests the Court to amend the finding of facts in this Court's Order affirming the original trial court decision dated March 14, 2003. WALKER respectfully asks this Court to amend the facts to read as follows:

**AMENDED STATEMENT OF FACTS**

In support of his appeal of the trial court's denial of his ALA.R.Crim.P. 32 petition, WALKER would adopt the Statement of Facts presented to this Court during his initial appeal, Case No. CR 99-1730, along with the following undisputed information brought before the trial court during the evidentiary hearing:

**EXHIBIT**K

Subsequent to leveling accusations of sexual abuse against her father in 1996 Jennifer Renee Walker recanted her story on a number of occasions to various individuals.

First, Jennifer admitted that the story was a lie and that she hated her father so much that she wished he was dead in a letter she wrote to her then boyfriend Mark Duke who was in custody of the Shelby County authorities on a murder charge [R.27,29-30].

Second, while at the Gateway Home in Birmingham, Jennifer confessed to her counselor, Tim Bowen, that the sexual abuse allegations she made against her father were false [C. 15; R.26].

Third, while talking with Elizabeth Moorehead, the attorney appointed her Guardian ad Litem by the Chilton County Juvenile Court, Jennifer admitted that her sexual abuse accusations against her father were false [C.15;R.37;53-4]. According to Jennifer Ms. Moorehead warned her that changing her testimony could result in a possible perjury charge and that Jennifer would more than likely find herself in jail as

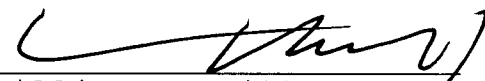
a result [C.15;R.37]. Ms. Moorehead then informed both the Chilton County Juvenile Court and the Chilton County DHR that Jennifer wanted to recant at that time [R.54-5].

Fourth, Jennifer recanted her accusations to the Assistant District Attorney prosecuting the case before the trial [C. 15; R. 37-8]. Rather than showing concern for the situation or even bothering to investigate the recant, Assistant District Attorney Jennifer Jordan bluntly informed Jennifer Walker that she stay with her allegations of abuse or that she would be prosecuted for perjury [C.15;R.37-8].

Another undisputed fact placed before the trial court during the evidentiary hearing was that WALKER voluntarily took a polygraph exam conducted by Tarrant Police Chief Jesse Sprayberry, a state licensed polygraph examiner, on May 14, 1998 [R.86-8]. Based upon the results of the comprehensive polygraph examination conducted, Chief Sprayberry concluded that WALKER was truthful when he denied committing the acts for which he is now serving in the state penitentiary [R.67-9,88]. Upon hearing these results, defense counsel David Karn informed the prosecutor of the test and results, even offering to have

WALKER take another examination conducted by an expert of the State's choosing which was declined [R.69-71,78].

RESPECTFULLY SUBMITTED on this the 28<sup>th</sup> day of March, 2003.



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JAMES WILBERT WALKER, JR.,  
*Appellant*

TO: The Clerk of the  
Court of Criminal  
Appeals of Alabama

vs.


Case No. CR 01-2524

STATE OF ALABAMA,  
*Appellee*

Clerk's certificate of  
completion: 12/06/2002

I certify that I have on this date served a copy of the foregoing Application for Rehearing and Brief in Support on the Office of the Attorney General for the State of Alabama by United States mail, first class postage prepaid on this date.

DATED this 28<sup>th</sup> day of March, 2003.

  
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William R. Hill, Jr.  
Counsel for Appellant